



# City of Benbrook

## CITY COUNCIL COMMUNICATION

07/21/2022	REFERENCE NUMBER: G-2568	SUBJECT: Approve Assignment, Consent and Amendment of Public Rights-of-Way Encroachment License Agreement	PAGE:  1 of 1
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On March 4, 2021, as part an Economic Development and Performance Agreement (EDC Agreement), via City Council Agenda Item EDC-2021-02, between the City of Benbrook and business entities controlled by Sam Shipley (Shipley), City Council authorized Staff to execute a public rights-of-way encroachment license agreement with Shipley. The agreement was finalized and recorded with the Tarrant County Clerk's Office on December 17, 2021 at Instrument No. D221368423 (the "Encroachment Agreement"). The Encroachment Agreement grants Shipley private use of an unused 0.397-acre section of public rights-of-way located at the corner of Winscott Road and Old Benbrook Road (see Figure 1).

Per the terms of the Encroachment Agreement, Shipley was approved to install a concrete parking lot (approx. 21 spaces), a drive aisle and curbing, one monument style sign, and landscaping, of which all but the monument sign have been completed. The Encroachment Agreement carries a renewable 20-year term provided the Licensee (Shipley) maintain said improvements and hold necessary liability insurance. The City may terminate the Encroachment Agreement for any reason following a written 30-day notice. Upon termination, the Licensee is required to restore the property to its original condition.

Section 17 of the Encroachment Agreement stipulates that Shipley, as the Licensee, may assign all of its rights and obligations under the Encroachment Agreement to a new owner of the abutting property located at 500 Winscott Road, Benbrook, Texas (the Property) upon written approval from: 1) the City, and 2) providing the new owner agrees to the terms of the original Encroachment Agreement.

On June 27, 2022, Shipley notified the City that he had entered into a Contract of Sale to convey the Property to Williams RDM, a manufacturer of aerospace and defense products as well as products for the oil and gas and fire safety industries and that he desired to exercise Section 17 of the Encroachment Agreement. Closing is tentatively scheduled for early August 2022.

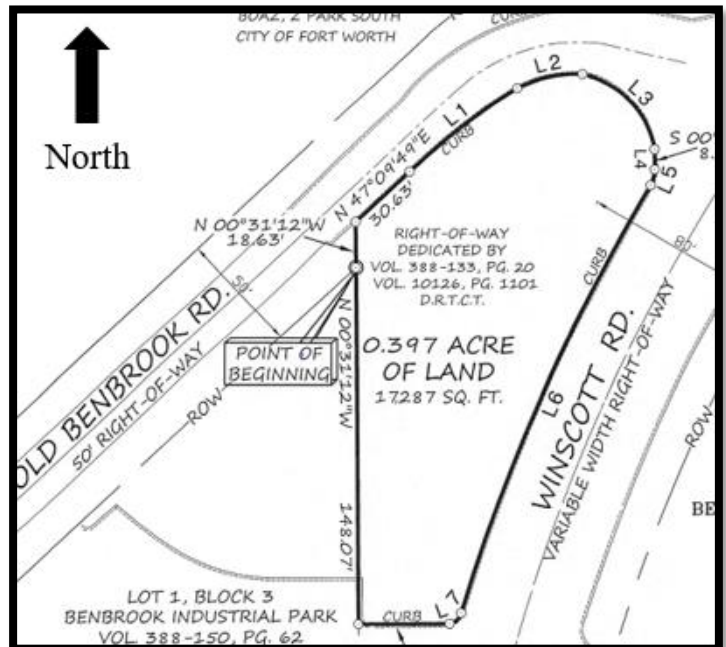


Figure 1

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY:
		CITY SECRETARY
CITY MANAGER		DATE:

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Due to the pending sale to Williams RDM that includes only a one-year lease back provision, Shipley will be unable fulfill the terms of the EDC Agreement that require Shipley to operate American Masonry Supply, Inc. (AMS) on the Property for a period of three (3) years after receiving a Certificate of Occupancy (C/O) for the facility. A C/O was issued on February 2, 2022.

In accordance with Section 9 of the EDC Agreement, Shipley is required to cure such default by paying the Benbrook Economic Development Corporation (BEDC) One Hundred Thousand Dollars (\$100,000). Shipley has agreed to deliver payment to BEDC at or prior to closing of the Property.

Shipley has also agreed to close-out all active building permits and execute the Operation and Maintenance Agreement required by the City for private stormwater facilities recently constructed on the Property at or prior to closing.

### **RECOMMENDATION**

Staff recommends that City Council approve the Assignment, Consent and Amendment of Public Rights-of-Way Encroachment License Agreement (Agreement) with the following conditions:

1. The Agreement shall be executed at closing of the Property and shall be recorded in the Real Property Records of Tarrant County, Texas, immediately follow recordation of the property's conveyance instrument from Shipley to Williams RDM.
2. Per Section 9 of the Encroachment Agreement, Williams RDM shall provide the City with an updated Certificate of Liability Insurance at or prior to closing of the Property that shall be recorded with the Agreement as Exhibit D, Revised.
3. A check payable to the Benbrook Economic Development Corporation (BEDC) in the amount of \$100,000 shall be given to the BEDC at or prior to closing of the Property.
4. All outstanding building permit applications associated with the Property shall be closed-out prior to closing of the Property.
5. The Operation and Maintenance Agreement shall be executed at or prior to closing of the Property.